IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 87/2005

Shri Siddharth Deshpande,
aged 18 years, resident of
House No.102/C,
"Usha Kinara" Behind Church,
Taleigao, Goa. ..... Petitioner.

V/s.

1) Goa University, through its
Registrar, having Office at
Taleigao Plateau, Bambolim, Goa.

2) The Principal, Goa College of
Architecture, Government of Goa,
Altinho, Panaji, Goa.

3) Director of Technical Education,
Government of Goa,
Directorate of Technical Education,
having office at Porvorim, Bardez, Goa. ..... Respondents.

Mr. M.S. Sonak, Advocate for the petitioner.

Mrs. A. A. Agni, Advocate for respondent No. 1.

Mr. M.B. D'Costa, Advocate General with Mr. J.A. Lobo, Addl. Govt. Advocate for respondents No.2 and 3.

CORAM : A.P. LAVANDE
N.A. BRITTO, JJ.

DATE : 3rd May, 2005.

ORAL ORDER : (Per LAVANDE, J.)

The petitioner has filed the present petition, seeking following reliefs :

> " A) This Hon'ble Court be pleased to issue a declaration that new Ordinance OC.42 is ultra vires, illegal, null and void;
>
> B) This Hon'ble Court be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction, commanding the respondents to do the following :
>
> (i) To refrain from applying Ordinance OC.42, as the same is ultra vires or at any rate, from applying the same retrospectively to the petitioner whose semester had commenced from 5/7/2004;
> (ii) To promote petitioner to the Fourth Semester of Bachelor of Architecture Course consistent with the Memorandum dated 20/4/2004;
> C) ...."

2. According to the petitioner, he was admitted to the First Year Bachelor of Architecture Course at Goa College of Architecture in June, 2003. The said Course comprised of 10 Semesters, spread over a period of 5 years. On 20.4.2004, respondent No.2 issued Memorandum clarifying that the practice of `ATKT' is available to

the students who fail in the subject of Building Construction and the said practice is required to be followed until the position is changed by the University Authorities. On 3.8.2004, the Registrar of respondent No.1 addressed a communication stating therein that a new Ordinance OC.42 relating to award of Bachelor of Architecture Degree, Goa University had come into effect from 22.7.2004. By another communication dated 1.11.2004, respondent No.1 forwarded amendment to Ordinance OC.42.10.1, which came into effect from 18.10.2004. In November, 2004, the petitioner answered the Third Semester Examination and the results were declared in December, 2004, wherein the petitioner was declared failed in the subject of Building Construction. According to the petitioner, by giving retrospective effect to the Ordinance OC.42, the petitioner is being deprived of promotion to the Fourth Semester, which commenced on 3.1.2005 since he had not cleared the subject of Building Construction in the Third Semester Examination. Thereafter, the petitioner made various representations to the respondents and since the same were not responded favourably, the petitioner filed the present petition on 21.2.2005.

3. Upon notice being issued to the respondents, respondent No.1 filed an affidavit of Registrar, opposing the petition. The petition was, thereafter, adjourned either at the requests of the learned Counsel appearing for the parties or on account of want of time.

The matter was taken up for hearing on admission on 12.4.2005 and thereafter the matter was heard on several dates. The learned Counsel appearing for the parties advanced arguments and relied upon several Judgments in support of their submissions. When the matter was called out for further hearing today, it was pointed out by the respondents that the Fourth Semester which had commenced on 3.1.2005 got over on 30th April, 2005. This position has not been disputed by the learned Counsel appearing for the petitioner. In view of this admitted position, it is not necessary for us to refer to the submissions made and the authorities relied upon by the learned Counsel for the parties, since the substantive relief of promotion to Fourth Semester of Bachelor of Architecture Course claimed by the petitioner is no more available to the petitioner. Therefore, in our opinion, it will not be appropriate for us to decide whether the Ordinance OC.42 as ultra vires, illegal, and null and void and whether the same could be applied retrospectively to the petitioner, when the Semester had commenced from 5.7.2004. Since the substantive relief claimed is no more available to the petitioner, we deem it appropriate not to decide whether the Ordinance OC.42 is ultra vires or whether the same is applicable to the petitioner.

4. In view of the above, we hold that the petition has become infructuous since the substantive relief claimed by the Petitioner is not now available to the petitioner. Consequently, the petition is

summarily rejected. No order as to costs.

A.P. LAVANDE, J.

N.A. BRITTO, J.

ssm.